IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2269 of 2006

KHALIL AHMAD
V/S
STATE & ORS.

Mr. DK PARIHAR, for the appellant / petitioner

Mr. HR SONI, AGA, for the respondent

Date of Order : 2.7.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

By the impugned order, the learned trial Court has dismissed the petitioner's application filed under Order 7 Rule 14(3).

A look at the copy of the application, produced as Annex.7, shows that thereby the petitioner wanted to produce the copies of the order of this Court passed at Jaipur Bench dated 23.8.2002 and 22.5.2003, and alleging, that Mining Department permitted excavation, vide order dated 24.5.2004, and certificate in that regard was issued by the Pollution Control Board, about the work being echo friendly.

The learned trial Court dismissed the

application, on the ground, that the suit is for declaration of Bapi rights, and the Pollution Control Board certificate is not at all relevant for the pleadings in the plaint. Likewise, it was observed, that the suit has been filed on the basis of notice dated 27.10.99, and these documents have no relevance thereto.

A look at the order of this Court dated 23.8.2002 (Annex.4) shows, that thereby in the petitioner's writ, interim order was granted, staying the operation of Annex.6 therein being 4.10.2001, whereby the petitioner was called upon to deposit a sum of Rs.16,05,570/-, and that recovery was challenged on the ground, that the petitioner was directed to deposit the amount without passing of any order of recovery. Then vide order dated 22.5.2003, the said order dated 23.8.2002 had been confirmed.

It was argued by learned counsel for the petitioner, that since the petitioner was asked to deposit the amount on the ground of petitioner's having undertaken illegal excavation, and that recovery was challenged. Thus, that writ related to this very land, and is between the same parties, and since recovery had been stayed, the order is relevant, apart from the fact that, where any order of this Court is produced before the trial Court, it is always required to be taken on record.

I have considered the submission.

In my view, the orders of this Court dated 23.8.2002 and 22.5.2003, to say the least, have no relevance to the controversy involved in the present suit. Even at the cost of repetition, it may be observed, that the recovery has been challenged, only on the ground, that the petitioner is called upon to deposit the amount without passing any order of recovery, while the present suit is for declaration of his rights as Bapidar, of mine No.71, on the basis of Mine being of his Bapi, and heritable. Thus, in my view, the impugned order does not require any interference. The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

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